

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013090223

ORDER DENYING MOTION TO FILE
SECOND AMENDED COMPLAINT

On September 6, 2013, Student filed a Due Process Hearing Request (complaint), naming Los Angeles Unified School District (District) and, on September 11, 2013, the Office of Administrative Hearings (OAH) issued a scheduling order setting the hearing in October 2013. On September 18, 2013, OAH granted the parties' joint request for a continuance, setting the hearing in December 2013.

On December 3, 2013, OAH granted Student's Motion to Amend the Due Process Hearing Request, issuing a new scheduling order setting the hearing in January 2014. On December 9, 2013, OAH granted the parties' joint request for continuance, setting the hearing on the amended complaint for March 24 through 27, 2014, with a prehearing conference on March 17, 2014.

On February 18, 2014, Student filed a motion requesting permission to file a second amended request for due process, amending the complaint's issues two and three. On February 21, 2014, the District filed opposition to Student's motion to amend.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

Student filed the due process almost six months ago. The matter has since been continued three times, twice by the parties' stipulation and once as a consequence of a first amended complaint. The Student provides no reason for delaying six months before seeking to amend two of the four issues in the complaint, other than noting a court's discretion will

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

usually be liberally exercised to permit amended pleadings. The District does not consent to the amendment and opposes the motion.

Following the resolution session, special education law requires determination by way of OAH decision within 45 days. The filing of a second amended complaint would push the hearing determination due date into May 2013. This is nine (9) months after the initial filing and is contrary to the IDEA's public policy purpose that due process proceedings be resolved in a judicious and timely manner.

The motion is denied. The current prehearing (10:00 a.m., March 17, 2014) and hearing (March 24 through 27, 2014) dates are confirmed.

IT IS SO ORDERED.

DATE: February 24, 2014

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings